

### **REMARKS**

Claims 1-26 are pending in the present application. Claims 1-26 have been rejected 35 USC § 102(b). Claims 27 and 28 have been newly added. Accordingly, after entry of this amendment, the pending claims will be claims 1-28.

The Applicants appreciate the Examiner's thorough examination of the subject application and respectfully request reconsideration of the subject application based on the following remarks.

### **35 U.S.C. § 102(b) REJECTIONS**

The Examiner has rejected claims 1-26 under 35 USC §102(b) as being anticipated by U.S. Patent Number 5,974,021 to Toda, et al. ("Toda" or the "Toda Reference"). The Applicants respectfully traverse these rejections for the following reasons.

The Toda reference discloses a device that is capable of setting the optimum recording power using, *inter alia*, a thermal reading. See, e.g., Toda, col. 1, lines 10-11. More specifically, Toda teaches generating a recording pulse train with a test write data generating circuit 18 and a recording pulse forming circuit 15 and recording a mark on a recording medium 5 using a laser driver 14. See, e.g., Id., col. 3, line 50 to col. 4, line 11. Indeed,

[t]he code train from the selector 17 is input to the recording pulse generating circuit 15 and converted to the recording pulse train to control the length or width of the recording mark.

Id., col. 3, lines 64-67 (Emphasis added). Thus, Toda merely teaches controlling the length or width of the converted recording mark to account for deviations in the film thickness, deviation of environmental conditions, and/or change of characteristics of the recording device. See, e.g., Id., col. 3, lines 41-49. This is seen clearly in FIG. 3 for recording conditions A and B at the bottom of the figure.

In his Detailed Action, referring to Figure 2, the Examiner asserts that, Toda teaches a recording condition determining means that determines the recording condition "based on the disk type" and a recording condition computing means that determines test writing signals "based on the 'NON-DOW' and 'DOW' disk types."

However, in claims 1 and 13 of the present invention, the recording condition determining means determines recording conditions "with respect to at least one track selected from the tracks, by performing test writing with respect to the track thus selected." The "tracks" refer to lands and grooves (see claim 2) and not to an overwritable disk (DOW) or a non-overwritable disk (NON-DOW) as the Examiner suggests. Independent claims 12 and 24 expressly recite lands and grooves rather than "tracks". Therefore, at least with respect to claims 12 and 24, there can be no confusing a land and a groove for a DOW and NON-DOW disk.

Claims 1 and 13 further recite a recording condition computing means or a method step that "determines recording conditions to be used in recording with respect to a track other than the previously selected track." According to the Specification,

The recording condition computing section 24 performs computation with respect to a track (a second track) which was not selected at the track switch section 22 . . . based on the recording condition for the selected track determined by the recording condition determining section 23, thereby determining a recording condition for the non-selected track.

Specification, page 16, line 24 to page 17, line 6 (Emphasis added). In short, the recording condition computing section accounts for recording differences between tracks, i.e., the lands and grooves, providing a correlation between the two to convert the non-selected track when the other track is used for test writing. For example, if a land track is used for the test writing, the recording condition computing means will use a correlation between the lands and grooves to correct the recording condition for grooves based on the test writing performed on the land track without having to perform a test writing on a groove track, and vice versa. The Toda reference is completely silent about lands and grooves altogether and about determining recording

conditions to be used in recording on a land or groove when the land or groove was not the selected track on which the test writing was conducted.

Accordingly, it is respectfully submitted that, claims 1-26 satisfy all of the requirements of 35 U.S.C. 100, et seq., especially § 102(b). Accordingly, claims 1-26 are allowable. Moreover, it is respectfully submitted that the subject application is in condition for allowance. Early and favorable action is requested.

If for any reason a fee paid is inadequate or credit is owed for any excess fee paid, you are hereby authorized and requested to charge or credit Deposit Account No. **04-1105**.

Respectfully submitted,

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By: 

George W. Hartnell, III  
Reg. No. 42,639  
Attorney for Applicant(s)

EDWARDS & ANGELL, LLP  
P.O. Box 55874  
Boston, MA 02205  
(617) 517-5523  
Customer No.: 21,874  
465740